APPEAL NO. 023086
FILED JANUARY 3, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on October 21, 2002. With respect to the sole issue before him, the hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to and include the cervical area. The claimant appealed on sufficiency grounds, and the respondent (carrier) responded, urging that the hearing officer be affirmed, as the claimant failed to show a causal connection between her alleged cervical injury and her compensable injury.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury of _____, does not extend to and include the cervical area. It is undisputed that the claimant sustained a compensable injury to her right elbow, right shoulder, and low back, as the result of a fall at work. The claimant now contends that she also injured her cervical spine on the date of injury, and in support of her argument, presents some medical evidence suggesting a cervical injury. The carrier notes that the claimant's alleged cervical injury was not documented until three months after her date of injury, which date was coincidentally that of the first time she saw her chiropractor. The carrier further argues that the claimant has wholly failed to show any connection between her alleged cervical injury and the compensable injury, and, in fact, that the claimant has not really proven that she has an acute cervical injury. The hearing officer found that there was no causal connection with the claimant's alleged cervical problems and her compensable injury, and he noted that neither the claimant nor her medical evidence were persuasive.

Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). We do not find so here.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

CT CORPORATION SYSTEMS
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.

_____
Terri Kay Oliver
Appeals Judge

CONCUR:

_____
Susan M. Kelley
Appeals Judge

_____
Michael B. McShane
Managing Judge
Appeals Panel